



documents pertaining to MyTheresa. Additionally, this document is a judicial document filed in other court proceedings of which the Court may take judicial notice under Federal Rule of Evidence 201.

4. Attached hereto as Exhibit B is a true and correct copy of the Status Conference Statement of the Official Committee of Unsecured Creditors Relating to the MYT Series B Preferred Stock to be Distributed to Holders of Allowed General Unsecured Claims, filed in the NMG Bankruptcy Proceedings on August 20, 2020. Discussion in the Complaint of the MyTheresa disputes in the NMG Bankruptcy Proceedings, *see, e.g.*, Compl. ¶ 21, indicates that the SEC relied on documents publicly available on the NMG bankruptcy docket in bringing the suit, particularly documents pertaining to MyTheresa. Additionally, this document is a judicial document filed in other court proceedings of which the Court may take judicial notice under Federal Rule of Evidence 201.

5. Attached hereto as Exhibit C is a true and correct copy of an excerpt from Neiman Marcus Group LTD LLC's Form 10-K for the fiscal year ended July 28, 2018, filed with the SEC on September 18, 2018. This Form 10-K is a legally required public disclosure document filed with the SEC.

6. Attached hereto as Exhibit D is a true and correct copy of the Statement of the Acting United States Trustee Pursuant to the Court Order Regarding the Conduct of Marble Ridge Capital LP and Dan Kamensky, filed in the NMG Bankruptcy Proceedings on August 19, 2020. Portions of the SEC's Complaint in this action incorporate content from this document in near-verbatim form, indicating that the SEC relied on this document in bringing the suit.

*Compare, e.g.*, Compl. ¶ 15 with U.S. Trustee Statement at 5.

7. Attached hereto as Exhibit E is a true and correct copy of the Notice of Filing of Debtors' First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, attaching the Debtors' First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, filed in the NMG Bankruptcy Proceedings on July 30, 2020. The discussion of the debtors' proposed plan of reorganization in the Complaint indicates that the SEC had knowledge of and relied on this document in bringing the suit and/or that this document is incorporated by reference into the Complaint. *See* Compl. ¶ 26 (describing the "proposed terms of a plan of reorganization" and the fact that it was "on the public docket of the Neiman bankruptcy case," and referring to a Reorg Research article that provides an Internet link to the First Amended Joint Plan of Reorganization). Additionally, this document is a judicial document filed in other court proceedings of which the Court may take judicial notice under Federal Rule of Evidence 201.

8. Attached hereto as Exhibit F is a true and correct copy of the Notice of Filing of Disclosure Statement for the Debtors' First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, attaching the Disclosure Statement for the Debtors' First Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, filed in the NMG Bankruptcy Proceedings on July 30, 2020. The discussion of the debtors' disclosure statement in the Complaint, as well as a citation regarding the debtors' proposed plan of reorganization in the Complaint, indicates that the SEC had knowledge of and relied on this document in bringing the suit and/or that this document is incorporated by reference into the Complaint. *See* Compl. ¶ 24 (discussing the need to present to the Bankruptcy Court any potential changes to the disclosure statement); Compl. ¶ 26 (referring to a Reorg Research article that provides an Internet link to the Disclosure Statement). Additionally, this document is a

judicial document filed in other court proceedings of which the Court may take judicial notice under Federal Rule of Evidence 201.

9. Attached hereto as Exhibit G is a true and correct copy of the Transcript of Status Conference Before the Honorable David R. Jones (via Videoconference), United States Bankruptcy Court Judge, held in *Mariposa Intermediate Holdings, LLC v. Marble Ridge Capital, LP*, Adv. No. 20-03402 (Bankr. S.D. Tex.) on September 25, 2020.<sup>1</sup>

10. Attached hereto as Exhibit H is a true and correct copy of the Notice of Filing Exhibit to the Disclosure Statement, attaching the solicitation version of the Plan included in the Solicitation Package distributed to Holders of Claims and Interests pursuant to the Disclosure Statement Order and the solicitation version of the Disclosure Statement included in the Solicitation Package distributed to Holders of Claims and Interests Pursuant to the Disclosure Statement Order, which was filed in the NMG Bankruptcy Proceedings on August 6, 2020.<sup>2</sup> The discussion of the debtors' plan and disclosure statement in the Complaint indicates that the SEC had knowledge of and relied on this document in bringing the suit and/or that this document is incorporated by reference into the Complaint. *See* Compl. ¶¶ 24, 26. Additionally, this document is a judicial document filed in other court proceedings of which the Court may take judicial notice under Federal Rule of Evidence 201.

11. Attached hereto as Exhibit I is a true and correct copy of the letter of intent submitted by Jefferies Structured Credit LLC to the Official Committee of Unsecured Creditors ("UCC") for NMG on August 2, 2020. This letter is specifically discussed in the Complaint,

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<sup>1</sup> Mr. Kamensky's motion to dismiss relies on this exhibit only in connection with his arguments under Federal Rule of Civil Procedure 12(b)(1).

<sup>2</sup> Additional exhibits attached to the Notice are omitted from Exhibit H.

indicating that the SEC had knowledge of and relied on this document in bringing the suit and/or that this document is incorporated by reference into the Complaint. *See* Compl. ¶ 64.

12. Attached hereto as Exhibit J is a true and correct copy of the Transcript of Status Conference Before the Honorable David R. Jones (via Videoconference), United States Bankruptcy Court Judge, held in the NMG Bankruptcy Proceedings on August 28, 2020.<sup>3</sup>

13. Attached hereto as Exhibit K is a true and correct copy of the term sheet submitted by Marble Ridge Capital LP (“MRC”) to the UCC for NMG on August 3, 2020. This term sheet is specifically discussed in the Complaint, indicating that the SEC had knowledge of and relied on this document in bringing the suit and/or that this document is incorporated by reference into the Complaint. *See* Compl. ¶ 64.

14. Attached hereto as Exhibit L is a true and correct copy of the term sheet submitted by MRC to the UCC for NMG on August 11, 2020. This term sheet is specifically discussed in the Complaint, indicating that the SEC had knowledge of and relied on this document in bringing the suit and/or that this document is incorporated by reference into the Complaint. *See* Compl. ¶ 64.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 18, 2021, in New York, New York.

/s/ Joon H. Kim  
Joon H. Kim

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<sup>3</sup> Mr. Kamensky’s motion to dismiss relies on this exhibit only in connection with his arguments under Federal Rule of Civil Procedure 12(b)(1).